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HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E.  
HARMONY ROAD  
INTELLECTUAL PROPERTY  
ADMINISTRATION  
FORT COLLINS CO 80527-2400

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JUL 22 2008

**OFFICE OF PETITIONS**

In re Application of :  
Lain et al. :  
Application No. 10/629,599 : DECISION ON APPLICATION  
Filed: 07/30/2003 : FOR  
Atty Docket No. 200205658-2 : PATENT TERM ADJUSTMENT

This is a decision on the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)," filed January 28, 2008, which is properly treated as a petition under 37 CFR 1.705(b).

The application for patent term adjustment is granted to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct patent term adjustment determination at the time of the mailing of the notice of allowance is 748 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 16, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 744 days. Applicants timely filed the

instant application for patent term adjustment<sup>1</sup>. Applicants do not state a basis for their disagreement with the according of 744 days of patent term adjustment.

A review of the application history supports a conclusion that the number of days adjusted for Office delay and the number of days reduced for applicant delay are incorrect. A copy of the PAIR calculations for this application is enclosed.

Specifically, the reduction of 57 days of patent term adjustment was entered in error. The record does not reveal any circumstances that constitute a failure of applicants to engage in reasonable efforts to conclude processing or examination of the application. The Office should have assessed applicants a delay of zero (0) days.

Additionally, the adjustment of 53 days of patent term was entered in error. The Office mailed a notice of allowance on November 16, 2007, within four months of the filing of an appeal brief in compliance with 37 CFR 1.192 on August 16, 2007. See 37 CFR 1.703(a)(4). Thus, the adjustment of 53 days of patent term is not warranted.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 744 days (744 days of Office delay - 0 days of applicant delay).

The Office will charge the \$200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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<sup>1</sup> PALM Records indicate that the Issue Fee payment was received on January 28, 2008.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

*Kery A. Fries*

Kery A. Fries  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of REVISED PAIR Screen

Day : Sunday  
Date: 7/20/2008

Time: 10:28:47

## PALM INTRANET

PTA Calculations for Application: 10/629599					
Application Filing Date:		07/30/2003	PTO Delay (PTO):		801
Issue Date of Patent:			Three Years:		0
Pre-Issue Petitions:		0	Applicant Delay (APPL):		57
Post-Issue Petitions:		0	Total PTA (days):		748
PTO Delay Adjustment:		4			
File Contents History					
Number	Date	Contents Description		PTO	APPL
68	07/20/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
61	11/16/2007	MAIL NOTICE OF ALLOWANCE		53	
60	11/14/2007	ISSUE REVISION COMPLETED			
59	11/14/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	11/14/2007	DOCUMENT VERIFICATION			
57	11/13/2007	NOTICE OF ALLOWABILITY			
56	09/08/2007	APPEAL BRIEF REVIEW COMPLETE			
55	09/08/2007	DATE FORWARDED TO EXAMINER			
54	08/16/2007	APPEAL BRIEF FILED			
53	08/16/2007	NOTICE OF APPEAL FILED			
52	08/15/2007	MAIL ADVISORY ACTION (PTOL - 303)			
51	08/14/2007	ADVISORY ACTION (PTOL-303)			
50	07/26/2007	DATE FORWARDED TO EXAMINER			
49	07/20/2007	AMENDMENT AFTER FINAL REJECTION		57	39
48	07/25/2007	NOTICE -- DEFECTIVE NOTICE OF APPEAL			
47	07/09/2007	NOTICE -- DEFECTIVE APPEAL BRIEF			
46	07/09/2007	MAIL ADVISORY ACTION (PTOL - 303)			
45	07/09/2007	ADVISORY ACTION (PTOL-303)			
44	06/29/2007	DATE FORWARDED TO EXAMINER			
43	05/24/2007	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
42	06/29/2007	APPEAL BRIEF REVIEW COMPLETE			
41	06/29/2007	DATE FORWARDED TO EXAMINER			
40.1	05/24/2007	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
40	05/24/2007	APPEAL BRIEF FILED			

39.1	05/24/2007	DEFECTIVE/NOT ACCEPTABLE NOTICE OF APPEAL		
39	05/24/2007	NOTICE OF APPEAL FILED		
38	05/16/2007	CASE DOCKETED TO EXAMINER IN GAU		
37	03/13/2007	MAIL FINAL REJECTION (PTOL - 326)		
36	03/09/2007	FINAL REJECTION		
35	02/21/2007	CASE DOCKETED TO EXAMINER IN GAU		
34	02/06/2007	CASE DOCKETED TO EXAMINER IN GAU		
33	01/29/2007	DATE FORWARDED TO EXAMINER		
32	01/17/2007	RESPONSE AFTER NON-FINAL ACTION		
31	01/17/2007	NEW OR ADDITIONAL DRAWING FILED		
30	10/18/2006	MAIL NON-FINAL REJECTION	748	-1
29	10/16/2006	NON-FINAL REJECTION		
28	07/30/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED		
27	10/31/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED		
26	03/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED		
25	11/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED		
24	09/22/2006	CASE DOCKETED TO EXAMINER IN GAU		
23	04/25/2006	CASE DOCKETED TO EXAMINER IN GAU		
22	03/28/2006	CASE DOCKETED TO EXAMINER IN GAU		
21	02/17/2006	CASE DOCKETED TO EXAMINER IN GAU		
20.7	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
20	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
19	07/18/2005	CASE DOCKETED TO EXAMINER IN GAU		
18	10/31/2003	REFERENCE CAPTURE ON IDS		
17	07/30/2003	REFERENCE CAPTURE ON IDS		
16.7	03/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
16	03/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
15	07/30/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)		
14	02/26/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE		

13	02/26/2004	CASE DOCKETED TO EXAMINER IN GAU		
12.7	10/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
12	10/31/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
11.7	07/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
11	07/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
10	10/28/2003	APPLICATION RETURN FROM OIPE		
9	10/28/2003	APPLICATION IS NOW COMPLETE		
8	10/28/2003	PRE-EXAM OFFICE ACTION WITHDRAWN		
7	10/28/2003	APPLICATION RETURN TO OIPE		
6	10/28/2003	APPLICATION DISPATCHED FROM OIPE		
5	10/28/2003	APPLICATION IS NOW COMPLETE		
4	10/17/2003	CASE CLASSIFIED BY OIPE		
3	10/17/2003	CLEARED BY OIPE CSR		
2	09/07/2003	IFW SCAN & PACR AUTO SECURITY REVIEW		
1	07/30/2003	INITIAL EXAM TEAM NN		

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#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

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